

July 10, 2003

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 10<sup>th</sup> day of July 2003, at 8:00 P.M., and there were

PRESENT:            ANTHONY ESPOSITO, MEMBER  
                         JOSEPH GIGLIA, MEMBER  
                         RICHARD QUINN, MEMBER  
                         ARLIE SCHWAN, MEMBER  
                         ROBERT THILL, MEMBER  
                         JEFFREY LEHRBACH, CHAIRMAN

ABSENT:            WILLIAM MARYNIEWSKI

ALSO PRESENT:    JOHANNA M. COLEMAN, TOWN CLERK  
                         RICHARD SHERWOOD, TOWN ATTORNEY  
                         JEFFREY H. SIMME, BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted

**PETITION OF KEITH WILKINSON:**

THE 1st CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Keith Wilkinson, 19 Wedgewood Terrace, Amherst, New York 14226 for two [2] variances for the purpose of relocating a single family dwelling on vacant land owned by the petitioner on Maple Drive, Bowmansville, (between 37 Maple Drive and 29 Maple Drive and identified on the tax maps as SBL # 82.18-1-23.11) in the Town of Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(b)(1) of the Code of the Town of Lancaster. The placement of the proposed dwelling would result in each side yard having a lot line set back of seven [7] feet.

Chapter 50, Zoning, Section 10C.(3)(b)(1) of the Code of the Town of Lancaster requires a minimum 7.51 foot side yard lot line set back for each side yard, additionally, it requires that the total width of the side yards equal a minimum 18.77 feet. The petitioner, therefore, requests a .51 foot side yard set back variance for each side yard and a 4.77 foot combined width of both side yards variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Keith Wilkinson, petitioner  
19 Wedgewood Terrace  
Amherst, New York 14226

Proponent

**IN THE MATTER OF THE PETITION OF KEITH A. WILKINSON**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. QUINN, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. GIGLIA  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Keith A. Wilkinson and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of July 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the Building Inspector insures that the north west corner of the dwelling's garage is situated on the lot in such a location that it is to the rear of the dwelling located at 37 Maple Road.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	ABSTAINED
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

July 10, 2003

**PETITION OF MICHAEL WITTENBERG:**

THE 2nd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Michael Wittenberg, 19 Woodgate Drive, Lancaster, New York 14086 for one [1] variance for the purpose of allowing a storage shed to remain in its present location on premises owned by the petitioner at 19 Woodgate Drive, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster. The proposed location of the storage shed would result in a three [3] foot rear yard lot line set back.

Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster requires a five [5] foot rear yard lot line set back. The petitioner, therefore, requests a two [2] foot rear yard lot line set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Michael Wittenberg, the petitioner  
19 Woodgate Drive  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF MICHAEL WITTENBERG**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. ESPOSITO, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. THILL  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Michael Wittenberg and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of July 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

July 10, 2003

**PETITION OF ALAN MALKE:**

THE 3rd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Alan Malke, 310 Broezel Avenue, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a garage with a loft on premises owned by the petitioner at 310 Broezel Avenue, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10.D.(2) of the Code of the Town of Lancaster. The height of the proposed garage is twenty-four [24] feet.

Chapter 50, Zoning, Section 10.D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests an eight [8] foot height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Alan Malke, the petitioner  
310 Broezel Avenue  
Lancaster, New York 14086

Proponent

Barbara Stewart  
37 Meadow Lea  
Lancaster, New York 14086

Opponent

Gregory Stewart  
37 Meadow Lea  
Lancaster, New York 14086

Opponent



**IN THE MATTER OF THE PETITION OF ALAN MALKE**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Alan Malke and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of July 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 2, (R2) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 2, (R2) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought, namely storage space, cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, however not unreasonable.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the structure is limited to a height of twenty two feet six inches [22'-6"].
- That the gutters drain towards Broezel Avenue.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED NO
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

July 10, 2003

**PETITION OF JAMES D'ARCY:**

THE 4th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of James D'Arcy, 4844 William Street, Lancaster, New York 14086 for one [1] variance for the purpose of constructing an addition to an existing garage on premises owned by the petitioner at 4844 William Street, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10.D.(4) of the Code of the Town of Lancaster. The area of the proposed addition, four hundred [400] square feet, when added to the existing garage area, seven hundred forty-four [744] square feet is one thousand one hundred forty-four [1,144] square feet.

Chapter 50, Zoning, Section 10.D.(4) of the Code of the Town of Lancaster limits the area of accessory structures to seven hundred fifty [750] square feet. The petitioner, therefore, requests a three hundred ninety-four [394] square foot variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

James D'Arcy, the petitioner  
4844 William Street  
Lancaster, New York 14086

Proponent

Thomas Fuerstein  
4840 William Street  
Lancaster, New York 14086

Opponent

Robert Bonafede  
4820 William Street  
Lancaster, New York 14086

Opponent

**IN THE MATTER OF THE PETITION OF JAMES D'ARCY**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. THILL  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of James D'Arcy and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of July 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That this board has heard conflicting testimony regarding changes to the character of the neighborhood if this area variance is granted.

That a detriment to nearby properties may be created by the granting of the area variance relief sought.

That the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the alleged difficulty is self created.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That the petitioner failed to carry the burden of establishing that strict compliance with the Zoning Ordinance would cause practical difficulties rendering the property unusable.

That denial of the variance does not deprive the petitioner of the ability to construct additional storage area on his property.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the area variance relief sought be considered.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED NO
MR. GIGLIA	VOTED NO
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED NO
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED NO

The resolution granting the variance was thereupon **DENIED.**

July 10, 2003

**PETITION OF MARRANO/MARC EQUITY CORPORATION:**

THE 5th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Marrano/Marc Equity Corporation, 2730 Transit Road, West Seneca, New York 14224 for two [2] variances for the purpose of constructing a single family dwelling on premises owned by the petitioner at 46 Summerfield Drive (Sub Lot #70), Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster. The location of the proposed dwelling will result in a west side yard of seven [7] feet.

Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster requires a nine [9] foot west side yard. The petitioner, therefore, requests a west side yard variance of two [2] feet.

- B. A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Summerfield Drive with an exterior side yard [considered a front yard equivalent] fronting on Apple Blossom Boulevard. The location of the proposed dwelling will result in a twenty-seven [27] foot east exterior side yard set back on Apple Blossom Boulevard.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a 35 foot east exterior side yard set back on Apple Blossom Boulevard. The petitioner, therefore, requests an eight [8] foot east exterior side yard set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Victor Martucci, the petitioner  
Vice President, Marrano/Marc Equity Corporation

Proponent

Louis Ziemba  
14 Saddlebrook Point  
Hamburg, New York 14075

Proponent

Carol Ziemba  
14 Saddlebrook Point  
Hamburg, New York 14075

Proponent

**IN THE MATTER OF THE PETITION OF MARRANO/MARC EQUITY CORPORATION**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. ESPOSITO  
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Marrano/Marc Equity Corporation and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of July 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the requested area variance relief is substantial, however it is mitigated by the fact that there will be twenty feet separating the dwelling on the subject property from the dwelling at 44 Summerfield Drive.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED NO
MR. SCHWAN	VOTED NO
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **DENIED.**

July 10, 2003



**PETITION OF MARRANO/MARC EQUITY CORPORATION:**

THE 6th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Marrano/Marc Equity Corporation, 2730 Transit Road, West Seneca, New York 14224 for two [2] variances for the purpose of constructing a single family dwelling on premises owned by the petitioner at 47 Apple Blossom Boulevard (Sub Lot #95), Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster. The location of the proposed dwelling will result in a south side yard of seven [7] feet.

Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster requires a nine [9] foot south side yard. The petitioner, therefore, requests a south side yard variance of two [2] feet.

- B. A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Peachtree Court with an exterior side yard [considered a front yard equivalent] fronting on Apple Blossom Boulevard. The location of the proposed dwelling will result in a thirty-three [33] foot north exterior side yard set back on Apple Blossom Boulevard.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a thirty-five [35] foot north exterior side yard set back on Apple Blossom Boulevard. The petitioner, therefore, requests a two [2] foot north exterior side yard set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Victor Martucci, the petitioner  
Vice President, Marrano/Marc Equity Corporation

Proponent

Jerome Imiola  
4 Peachtree Court  
Lancaster, New York 14086

Opponent

**IN THE MATTER OF THE PETITION OF MARRANO/MARC EQUITY CORPORATION**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Marrano/Marc Equity Corporation and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of July 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has requested further information from the petitioner.

**WHEREAS**, the petitioner may file an amendment to his area variance application.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of both the residents of the Town of Lancaster and the petitioner.

**NOW, THEREFORE, BE IT  
RESOLVED** that this hearing be adjourned to allow for further testimony and evidence to be presented.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the adjournment of this hearing was thereupon  
**ADOPTED.**

July 10, 2003

**PETITION OF MARRANO/MARC EQUITY CORPORATION:**

THE 7th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Marrano/Marc Equity Corporation, 2730 Transit Road, West Seneca, New York 14224 for two [2] variances for the purpose of constructing a single family dwelling on premises owned by the petitioners at 49 Summerfield Drive (Sub Lot #39), Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster. The location of the proposed dwelling will result in a west side yard of seven [7] feet.

Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster requires a nine [9] foot west side yard. The petitioner, therefore, requests a west side yard variance of two [2] feet.

- B. A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Summerfield Drive with an exterior side yard [considered a front yard equivalent] fronting on Apple Blossom Boulevard. The location of the proposed dwelling will result in a thirty-three [33] foot east exterior side yard set back on Apple Blossom Boulevard.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a thirty-five [35] foot east exterior side yard set back on Apple Blossom Boulevard. The petitioner, therefore, requests a two [2] foot east exterior side yard set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Victor Martucci, the petitioner  
Vice President, Marrano/Marc Equity Corporation

Proponent

Gina Montalvo  
47 Summerfield Drive  
Lancaster, New York 14086

Opponent

Monte Montalvo  
47 Summerfield Drive  
Lancaster, New York 14086

Opponent

**IN THE MATTER OF THE PETITION OF MARRANO/MARC EQUITY CORPORATION**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. SCHWAN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Marrano/Marc Equity Corporation and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of July 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has requested further information from the petitioner.

**WHEREAS**, the petitioner may file an amendment to his area variance application.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of both the residents of the Town of Lancaster and the petitioner.

**NOW, THEREFORE, BE IT  
RESOLVED** that this hearing be adjourned to allow for further testimony and evidence to be presented.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the adjournment of this hearing was thereupon  
**ADOPTED.**

July 10, 2003

**PETITION OF MARRANO/MARC EQUITY CORPORATION:**

THE 8th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Marrano/Marc Equity Corporation, 2730 Transit Road, West Seneca, New York 14224 for two [2] variances for the purpose of constructing a single family dwelling on premises owned by the petitioners at 24 Apple Blossom Boulevard (Sub Lot #62), Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster. The location of the proposed dwelling will result in a west side yard of seven [7] feet.

Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster requires a nine [9] foot west side yard. The petitioner, therefore, requests a west side yard variance of two [2] feet.

- B. A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Apple Blossom Boulevard with an exterior side yard [considered a front yard equivalent] fronting on Sugar Mill Court. The location of the proposed dwelling will result in a thirty-three [33] foot east exterior side yard set back on Sugar Mill Court.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a 35 foot east exterior side yard set back on Sugar Mill Court. The petitioner, therefore, requests a two [2] foot east exterior side yard set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Victor Martucci, the petitioner  
Vice President, Marrano/Marc Equity Corporation

Proponent

**IN THE MATTER OF THE PETITION OF MARRANO/MARC EQUITY CORPORATION**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. ESPOSITO, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. LEHRBACH  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Marrano/Marc Equity Corporation and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of July 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has requested further information from the petitioner.

**WHEREAS**, the petitioner may file an amendment to his area variance application.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of both the residents of the Town of Lancaster and the petitioner.

**NOW, THEREFORE, BE IT  
RESOLVED** that this hearing be adjourned to allow for further testimony and evidence to be presented.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the adjournment of this hearing was thereupon  
**ADOPTED.**

July 10, 2003

**PETITION OF TIM HORTON'S GROUP:**

THE 9th CASE TO BE CONSIDERED BY THE Zoning Board of Appeals was that of the adjourned hearing to consider the petition of Tim Hortons Group, 4455 Transit Road, Williamsville, New York 14221, for one [1] variance for the purpose of adding thirteen [13] square feet of signage to an existing pole sign located at 370 Central Avenue, Lancaster, New York on property owned by NOCO Energy Corp., 2440 Sheridan Drive, Tonawanda, New York 14150, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster. The total face area of the proposed pole sign (13 square feet) when added to the existing sign area (62 square feet) is seventy five [75] square feet.

Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster limits the total maximum face area of a pole sign on the premises to sixty four [64] square feet. The petitioner, therefore, requests an eleven [11] square foot variance of the total maximum face area permitted for this proposed pole sign.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying the Village of Lancaster of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

None

**IN THE MATTER OF THE PETITION OF TIM HORTONS GROUP**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. GIGLIA  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Tim Hortons Group and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 12th day of June 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster on June 12, 2003 requested further clarification from the Building Inspector of the Town of Lancaster, and

**WHEREAS**, the Building Inspector of the Town of Lancaster satisfactorily replied to the members of the Zoning Board of Appeals in a written communication dated June 25, 2003.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster is satisfied that the requested variance relief is the minimum variance necessary.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the lessee of the premises in question.

That the property for which the applicant is petitioning is within a General Business District, (GB) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the General Business District, (GB) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning commented on the proposed zoning action as follows:

"No recommendation; proposed action has been reviewed and determined to be of local concern."

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.



That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

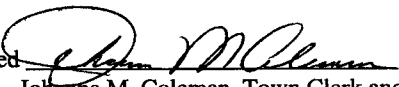
The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

July 10, 2003

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was  
adjourned at 10:30 P.M.

Signed   
Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals  
Dated: July 10, 2003